

Easement Monumentation and Survey Requirements

The recent Board discussion and opinions on monumenting easements continues to generate questions and comments. A follow-up multipart question has been presented for consideration by the Board.

To preface the questions and discussion, the following quote from previous responses is presented:

“Quite often we hear from surveyors that the Board is trying to remove professional judgement from the surveyor by the issuing of these opinions. Quite the contrary, the Board issues these opinions based on specific questions being asked. We respond by reviewing the rules and statutes and then responding to that question with what we believe best protects the public. The easement question is one of those topics that is best left to the judgement of the land surveyors involved, with the caveat that they **must** keep in mind that their primary obligation is to the public as a whole and not just their client.”

With that in mind, the questions (paraphrased) and their answers are as follows:

- **Question 1:** If a Surveyor prepares a description for an easement from record data, are they required to set monuments and file a Record of Survey?

"54-1227. Surveys – Authority and Duties of Professional Land Surveyors and Professional Engineers. Every licensed professional land surveyor is hereby authorized to make land surveys and it shall be the duty of each licensed professional land surveyor, whenever making any professional boundary land survey as defined in section 54-1202, Idaho Code, that is not preliminary in nature, to set permanent and reliable magnetically detectable monuments at all unmonumented corners *field located*, ..." *[emphasis added]*

The language ‘field located’ was developed to give a clear trigger for setting monuments and filing a record of survey. A description that is not based on field work and where the location is not marked in any way does not **require** monuments and a map. It may be advisable to educate the client on the benefits and do the work. This is especially true where the easement or defining feature is to be staked as part of the project. Getting the easement monumented and into the record (as a survey) reduces questions of location and intent. If the easement is final and the work is going to be done, getting it done sooner rather than later is good practice.

- **Question 2:** If a surveyor is contracted to stake an easement or feature defining the location of an easement prepared by others, will they be required to set monuments and file a survey?

The first surveyor ‘field locating’ an easement is required to set monuments and file a survey. The exceptions would be temporary easements or those easements following a monumented lot line or right of way.

The key to getting this right in practice is simple. If you are reading Idaho Code 55-1303 (or other statutes and rules) to avoid doing the work, you are likely reading it wrong. Even in cases where a technical case can be made to avoid setting monuments and filing a map, we are still governed by the ‘standard of care’ and a requirement to protect the public.